

1 attention, or I might have seen the script. I do
2 not think it was from hearing anything like this,
3 so I am not really sure.

4 Q. Was it part of your responsibilities
5 to listen to the verification tapes as well as
6 the telemarketing tapes?

7 A. No.

8 Q. Do you know if --

9 A. It may have come from the corporate
10 affairs department, because they listen to the
11 tapes every time there is a complaint or whatnot,
12 you know. So somebody brought it to my
13 attention. And once I knew, then I put in an
14 order to Bill to change it.

15 Q. And this was late in 2002?

16 A. It seems like it was. I'd have to
17 double-check on that.

18 MR. HARKRADER: Let's take a five
19 minute break.

20 (A short break was taken.)

21 Q. Okay. Did you supervise Elizabeth

1 Rosas?

2 A. Yes, Elizabeth Ontiveros Rosas.

3 Q. How long have you been her supervisor?

4 A. Since she started, which is coming up
5 on three years now.

6 Q. And what does she do for you?

7 A. Computers. If I had to sum it up,
8 computer software. She is a software engineer;
9 she's a programmer. Her degree was in
10 programming at IU, and also she has a minor in
11 Spanish.

12 She worked at a pretty big firm -- I
13 think a "Big Eight" firm, where they went out,
14 and she flew all around and did programming
15 de-bugs for I think most of the governmental
16 contracts. She got tired of traveling around, so
17 she found us. She wanted to have kids and all
18 that, you know.

19 Anyway, we had some computer things
20 that were way beyond my grasp, software-wise, so
21 we hired her to come in and take us to a new

1 level as far as that. And she interfaces with
2 all of the -- any of our vendors. She helped
3 implement our new software, so she interfaces
4 with their engineers and whatnot whenever there
5 are any bugs or problems.

6 To sum it up all nicely, I would say
7 she is in charge of maintaining the maintenance
8 of our entire database of customers and keeping
9 it as organized and efficient and working as
10 possible.

11 Q. And that's what she has been doing for
12 the last three years since she started with you
13 all?

14 A. Uh-huh. Well, she does -- that's part
15 of her job. She is also -- she has moved up,
16 actually. Now she is senior to the treasury
17 area, the delivery area, and then the quality
18 control area -- those three divisions -- three,
19 four and five. So she monitors and works and
20 tells the treasury manager what to do. So if
21 there is any payroll hiccups or whatever, she can

1 go in and help fix that.

2 She is also Shalanda's boss, which is
3 where all of the provisioning of customers occur.
4 And that's also the win-back department, where
5 people who have canceled -- Well, now, as part of
6 our process, we move the drops -- instead of
7 provisioning them ourselves, we route them over.
8 And Liz helps Shalanda, and they create lists of
9 anybody who has dropped our service or canceled.
10 And then we have a department where they call
11 those people back and try to win them back to our
12 service.

13 I think we are running around 10 to 20
14 percent success rate right now in that. So,
15 obviously, we are hoping to expand on that.

16 Q. Did you hire her?

17 A. Yes. She replaced George Vasquez, who
18 I had worked with for a year or so. Well, that's
19 not really true. She was hired to help George
20 and I with some of the functions, and then she
21 ended up taking his job as vice president of

1 operations because we had some type of down-
2 sizing where Kurtis and I couldn't afford both of
3 them, bottom line. So George went and worked
4 with Kurtis on a new project. George actually
5 went and helped Kurtis create Total Bus.-247.

6 Q. Were you the one that reviewed her
7 resume' and interviewed her?

8 A. Uh-huh.

9 Q. I wonder if we can take, hopefully not
10 too long, and go through the divisions of the
11 company.

12 A. Okay.

13 Q. At least, you know, let's just limit
14 it to 2000 to the present.

15 A. Okay.

16 Q. I'm sorry -- the beginning of 2002 to
17 the present.

18 A. Okay.

19 Q. Divisions one and two, over which you
20 supervise; correct?

21 A. Well, there is the vice president of

1 administration --

2 Q. Okay.

3 A. -- and then I would be that person's
4 boss.

5 Q. And what do -- I know you said this
6 before, but what are division one and two?

7 A. Division one is basically personnel.
8 Division two is marketing, meaning like
9 publications, you know, newsletters, anything in
10 print or new products to the existing customer
11 base.

12 Q. Okay.

13 A. Although it doesn't really do
14 anything.

15 Q. Right.

16 A. But that's the theory of it.

17 Q. And that's marketing that is distinct
18 from what they would do in other divisions in
19 terms of telemarketing?

20 A. Yes. Let me describe it this way: It
21 would be marketing additional products to current

1 customers. Division six would be acquiring new
2 customers.

3 Q. Okay. Do you also oversee division
4 six?

5 A. Well, the vice president of sales.
6 And then I would oversee that person, which
7 currently that's me. But for most of the year,
8 it was Mike Norville.

9 Q. Is that the same thing as vice
10 president of expansion?

11 A. Yes.

12 Q. And the third vice president is vice
13 president of operations?

14 A. Correct.

15 Q. See, I do listen.

16 A. That's good.

17 MR. HAWA: I don't. What were they
18 again?

19 WITNESS: I should have brought a
20 chart.

21 MR. HARKRADER: Vice president of

1 admin; vice president of expansion; and vice
2 president of operations.

3 BY MR. HARKRADER:

4 Q. And divisions one and two are overseen
5 by the vice president of admin?

6 A. Correct.

7 Q. Division six, which is --

8 A. Acquisition of new customers.

9 Q. I keep wanting to say marketing.

10 A. We would could just say sales --

11 Q. Okay.

12 A. -- new sales.

13 Q. And that's the vice president of
14 expansion?

15 A. Correct.

16 Q. Division seven is the regulatory?

17 A. The regulatory. We call it the
18 executive division. And then one of the
19 departments is regulatory/legal.

20 Q. And that's overseen by which vice
21 president?

1 A. None. That's actually --

2 Q. That goes straight to the chairman of
3 the board?

4 A. The chairman of the board, right.

5 Q. They are kind of off on their own,
6 doing their own thing?

7 A. Yeah. They are there to primarily
8 keep the rest of the company legal and in
9 compliance and expanding.

10 Q. Okay. What is division three?

11 A. Division three is the treasury
12 division.

13 Q. And that's payroll?

14 A. Payroll, income, disbursements. You
15 know, supplies, keeping track of furniture,
16 equipment, stuff like that, assets.

17 Q. Division four?

18 A. That would be delivery division.

19 Q. What do they deliver?

20 A. Anything we sell. So we break that
21 down into the provisioning of the customers --

1 giving them basically what they ordered, their
2 long-distance service. And then they also --
3 that division also is where our customer service
4 is located.

5 Q. And what vice president oversees
6 division three, the treasury?

7 A. Operations -- vice president of
8 operations.

9 Q. And what about division four?

10 A. Vice president of operations. And
11 division five.

12 Q. And division five, okay. And what is
13 division five?

14 A. Quality control.

15 Q. That's right.

16 A. They would be the liaison between The
17 Verification Company, for example -- division
18 five would. That's also where we do some
19 in-house training; that's in that division. And
20 corrections, and stuff like that.

21 Q. Is that all seven divisions?

1 A. Yes.

2 Q. Are there other sub-entities?

3 A. Yeah, each of the divisions has three
4 departments.

5 Q. Okay.

6 A. There are 21 departments. And then,
7 theoretically, this is designed to expand to
8 whatever size. Like -- well, we can talk about a
9 company that has 4,000 stores. It's designed so
10 that you have seven divisions and three
11 departments, and then you can go into
12 sub-sections and then units. You can
13 theoretically run an AT&T. Obviously, we're not
14 that, but that's the theory behind it.

15 Q. Right.

16 A. So we do have the different
17 departments. A lot of those departments are
18 mostly run by the person who is the division
19 manager at this point in time.

20 MR. HAWA: There is a bulletin board
21 that has all of this.

1 WITNESS: We could send you a Polaroid
2 or whatever, or you can look at it.

3 MR. HAWA: Do you actually have it in
4 an electronic format, other than what's on that
5 bulletin board?

6 WITNESS: I have the whole thing in
7 the computer --

8 MR. HAWA: Okay. Yeah, we will send
9 you that rather than go through 21 departments.

10 MR. HARKRADER: Yeah, we're not going
11 to go through all that. But I appreciate your
12 information.

13 WITNESS: Okay.

14 BY MR. HARKRADER:

15 Q. And I would assume that each of the
16 three groups within the division relate to
17 whatever the division work is?

18 A. Correct. Similar to a chain of
19 command in the military basically, if you will.

20 Q. Okay. I gave you -- I think you still
21 have in front of you the Show of Cause Order and

1 the Letter of Inquiry.

2 A. Uh-huh.

3 Q. Will you take a look at the attachment
4 to the letter, which lists the names of the
5 consumers allegedly slammed by Business Options.

6 A. Uh-huh.

7 Q. Do any of those -- strike that.

8 Were you aware of the allegations of
9 slamming at or near the time that they allegedly
10 happened?

11 A. No.

12 Q. Separate and apart from what you may
13 have found out in the Show of Cause Order?

14 A. No. That's changing now. I'm going
15 to start getting more feedback on what division
16 seven is doing. But, no. Unfortunately, I don't
17 get a weekly or monthly summary of who has
18 complained in what state and what the basis of
19 their complaint is or anything like that. So,
20 no, I had nothing to do with any of these people
21 until now.

1 Q. Okay. So the first time you saw any
2 of those names in the Show of Cause Order, which
3 you told us earlier was the first time you found
4 about these particular individuals --

5 A. Right.

6 Q. -- was actually when you saw the Show
7 of Cause Order?

8 A. Right.

9 Q. What was the company's policy in 2002
10 for disseminating the names of complainants -- of
11 the people who claimed that Business Option had
12 slammed them? Was there any policy?

13 A. Not that I know of. There had been an
14 unwritten procedure where -- Bill was the guy who
15 handled it. You know, he handled it. He had an
16 assistant or two at all times, and that would
17 change if people quit or whatever. But
18 primarily, Bill kept the area organized and did
19 the filings and handled all the cycles.

20 Q. Okay. But he didn't have a monthly
21 report, though, that he would give to you or your

1 brother?

2 A. No. The one thing that he used to
3 give us was like the number of pending
4 complaints, which was a generic way of saying,
5 "Are we creating problems in sales?"

6 Q. Uh-huh.

7 A. So, you know, the goal was obviously
8 to keep that at zero at all times, and that's
9 where he kept it. You know, he would handle them
10 each week. Anyway, it's a flunk. We should
11 have, obviously, had some kind of a tracking
12 system. I'm sure that he did; I just never knew
13 of it.

14 Q. Right. Do you know what the company's
15 policy in 2002 was with respect to responding to
16 any complaints that they received as opposed to
17 reporting it? Do you understand my question?

18 A. I think so. Like what is the policy
19 if we have a complaint?

20 Q. Yeah, in 2002, what was the policy?

21 A. Well, in corporate affairs, the policy

1 or the procedure was, to my knowledge, to get in
2 contact with the customer or the state or
3 wherever the complaint is emanating from and try
4 to handle as best as possible. If that meant --
5 like if we had erroneously entered data-entered
6 somebody onto our service, which that happens
7 every now and then -- somebody may be typing in a
8 billing telephone number, and it's ten digits,
9 you know, they could actually hit a "2" instead
10 of a "1." And all of a sudden, we provisioned
11 the wrong person. Then, obviously, we would have
12 to refund that person and whatever. Anyway, so
13 just to handle as quickly as possible whatever
14 the problem is.

15 Q. And that was handled in division
16 seven?

17 A. Yes.

18 Q. Corporate affairs?

19 A. Yes. Customer service would handle it
20 if the customer called us. If there wasn't
21 really a complaint, but there was a question on

1 their bill or something like that, then we would
2 handle that right there in division four.

3 Q. Okay.

4 A. But anything that was like a complaint
5 from a state or anything like that was definitely
6 routed right to division seven.

7 Q. Okay. I see. What is the company's
8 procedure for handling complaints from consumers
9 and/or states currently?

10 A. I really don't know, other than
11 Shannon gets it, and she gets in communication
12 with the state and complies with whatever she
13 needs to comply with, I guess.

14 Q. So that's something that she should
15 know?

16 A. Yes, she should know that.

17 Q. And complaints that you hear directly
18 from the consumers would go to division four?

19 A. Yeah, if they call in directly. Now,
20 if it's a written complaint and it seems like
21 it's a legal matter, then it will go to division

1 seven. But if it's just one of our customers,
2 they have our 800 number, and they will just call
3 directly right into our customer service
4 department.

5 Q. Is that the same policy that the
6 company had in 2002?

7 A. Yeah.

8 Q. We are very close to the end.

9 A. Okay.

10 Q. Earlier this morning you talked about
11 Avatar and currently what Avatar does or one of
12 the many things that it does. You said it
13 receives all of the money that comes in from the
14 various companies?

15 A. Correct.

16 Q. And then it disburses it back out to
17 those companies?

18 A. Correct.

19 Q. Can you tell me how that works?

20 A. Yes. Weekly, w-e-e-k, once a week the
21 company will track how much income came in and

1 then present what its plan is. Like, for
2 example, Business Options or Buzz now -- let's
3 say there is \$50,000 that comes in, and then they
4 prepare a financial plan to spend that money
5 accordingly -- payroll or vendor bills or
6 whatever. And then that gets presented to the
7 financial banking officer, which is in division
8 seven. That's Kurtis who holds that position,
9 and then he approves or disapproves it based on
10 if he thinks it's going to help the company
11 expand. And that's true for each of the
12 different entities.

13 Q. Okay. How long has that policy been
14 in place?

15 A. All of this year. And it's actually
16 being done day-to-day or week-to-week. And I
17 believe most of the last year, there may have
18 been some weeks where it was done differently.
19 But I mean, in theory, the financial planning;
20 whether it was weekly, bi-weekly or monthly;
21 would go to Kurtis for final approval.

1 Q. Okay. And that's done through Avatar?

2 A. Now. Before Avatar, which was -- when
3 did that start? This year basically. So
4 pre-Avatar, it was kind of the same system, but
5 it didn't go through Avatar. So the financial
6 planning would come through -- like let's just
7 take Buzz, for example. The financial
8 planning -- the executive counsel, which would be
9 myself and the vice presidents, would meet and go
10 over the business of the week. And then I would
11 sit down and actually prepare the financial
12 planning for the week or the month or whatever it
13 might have been. And then I would forward that
14 to Kurtis for the second set of eyeballs, and he
15 would approve or disapprove it based on what I
16 had presented him.

17 Q. We talked yesterday with your brother
18 about the income of Business Options and Buzz and
19 something along the lines of Business Options
20 doesn't have any employees, but it provides
21 services to the customers. Is that your

1 understanding?

2 A. Correct.

3 Q. And income from those customers will
4 come in -- but instead of going to Business
5 Options, it will go to Buzz Telecom now.

6 A. Yeah. Now it goes directly to Avatar,
7 and then it gets funneled back to Buzz and
8 Business Options.

9 Q. But in 2002 -- or I guess in the
10 second half of 2002 --

11 A. Buzz.

12 Q. -- it went to Buzz?

13 A. Correct.

14 Q. And before Buzz came into existence in
15 mid-2002, it went to U.S. Bell?

16 A. Correct.

17 Q. So is Avatar now stepping into the
18 place of Buzz, or is that kind of a third layer?

19 A. Um --

20 Q. Let me try this: If you were to have
21 kind of a work chart of companies, would Avatar

1 be above Buzz?

2 A. Yes.

3 Q. And then below Buzz would be Business
4 Options?

5 A. I wouldn't say below; I'd say lateral.
6 So Buzz, in theory, has a business relationship
7 with Business Options where it's marketing the
8 Business Options products that it has tariffs
9 for, and then it gets paid a percentage of the
10 gross income for that service. Anyway, it has
11 come to my understanding that the way we do our
12 accounting needs to change.

13 Q. But Buzz doesn't do anything to
14 generate income; do they? I mean, all the income
15 is coming from consumers who have prescribed to
16 Business Options products?

17 A. Correct, almost a hundred percent. As
18 Buzz gets licensed in the various states, we did
19 a couple of pilots so far to see if we could
20 direct-bill customers, and we did that under the
21 name of Buzz. And Elizabeth could probably tell

1 you exactly, but I think it's a couple hundred
2 customers that we direct-bill as Buzz --

3 Q. Uh-huh.

4 A. -- which is different than Business
5 Options.

6 Q. Do you have any understanding of why
7 the companies' structured the income that way in
8 2002 and currently?

9 A. Yes. It was basically so that there
10 would be tighter control on how the monies were
11 disbursed so that the management company could
12 focus on expanding the operations and making sure
13 that lower level management wasn't making bad
14 decisions and put more control on the money
15 basically. And that's really the basic reason.
16 And then -- yeah.

17 Q. Okay. So do you get revenues for
18 HBOS?

19 A. Avatar does get revenues, yes.

20 Q. And before Avatar, the revenues would
21 go to Buzz when it existed?

1 A. Actually, it didn't. It stayed at
2 HBOS.

3 Q. Okay.

4 A. It stayed there. Same for Total
5 Bus.-247.

6 Q. But currently, it goes to Avatar?

7 A. Correct.

8 Q. Creative Financial Options was CFO?

9 A. Yes.

10 Q. And that's one business?

11 A. Yes.

12 Q. Galiant was a d/b/a for --

13 A. Galiant is the corporate name with the
14 Federal I.D. number, and then the d/b/a of
15 Galiant is -- what the heck is the name of it?
16 Total Bus.-247, TB-247.

17 Q. Does Facilitel still exist?

18 A. Yes. And that's the d/b/a name for
19 HBOS.

20 Q. And HBOS -- oh, you already told me
21 that.

1 A. It's actually a great name. It means
2 easy phone in Spanish. And it had a logo -- or
3 we do now with a smiley phone, and the market
4 actually loves that name.

5 Q. HBOS?

6 A. Facilitel means easy phone. It's
7 actually a really good name. It translates
8 better in Spanish is what I am trying to say --

9 Q. Okay.

10 A. -- than easy phone.

11 Q. Okay. Do you know a gentleman by the
12 name of Thomas Laskey?

13 A. No, I don't think so.

14 MR. HARKRADER: Do we have anything
15 else?

16 MR. SHOOK: No.

17 MR. HARKRADER: Well, the first thing
18 I want to tell you is thank you very much for
19 your time.

20 WITNESS: You're welcome.

21 MR. HARKRADER: You have helped us a